

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN MICHAEL PACK,

Defendant and Appellant.

C042240

(Super. Ct. Nos.
97F03689 & 98F10913)

In case No. 97F03689, defendant Brian Michael Pack pled no contest to possession of methamphetamine for sale (Health & Saf. Code, § 11378) and admitted he was personally armed with a handgun (Pen. Code, § 12022, subd. (c); further section references are to the Penal Code unless otherwise specified). Imposition of sentence was suspended and he was placed on probation for five years on conditions including 180 days of incarceration, a \$400 restitution fine, a \$50 laboratory analysis fee, and a \$150 drug program fee. Following several violations of probation, defendant was sentenced

to state prison for six years. Once again, execution of sentence was suspended and probation was reinstated on identical terms.

In case No. 98F10913, he pled no contest to possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)) and was sentenced to state prison for two years. Execution of sentence was suspended and he was placed on probation for four years on conditions including 240 days of incarceration, a \$200 restitution fine, a \$50 laboratory analysis fee, and a \$150 drug program fee.

In July 2002, a petition was filed alleging defendant violated probation in both cases by possessing pepper spray (§ 12403.7, subd. (a)) and by giving a false name to an officer (§ 148.9). He admitted the violation. Further probation was denied, and execution of both prison terms was ordered. In case No. 97F03689, he was awarded 270 days of sentenced credit, 76 days of custody credit, and 38 days of conduct credit. In case No. 98F10913, he was awarded 480 days of sentenced credit, 76 days of custody credit, and 38 days of conduct credit. The existing restitution fines (§ 1202.4) were confirmed, and identical restitution fines were suspended unless parole is revoked (§ 1202.45).

Defendant appeals, and we appointed counsel to represent him. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Our review of the record discloses the abstract of judgment must be corrected to list the two \$50 laboratory analysis fees and the two \$150 drug program fees that were imposed in 1997 and 1999. In addition, the judgment must be modified to include the penalty assessments on those fees. (*People v. Talibdeen* (2002) 27 Cal.4th 1151, 1153-1157; *People v. Smith* (2001) 24 Cal.4th 849, 851-854; *People v. Turner* (2002) 96 Cal.App.4th 1409, 1413-1416.) Each laboratory analysis fee carries a \$50 state penalty assessment (§ 1464, subd. (a)) and a \$35 county penalty assessment (Gov. Code, § 76000). Each drug program fee carries a \$150 state penalty assessment and a \$105 county penalty assessment. (E.g., *People v. Sierra* (1995) 37 Cal.App.4th 1690, 1695.)

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is modified to impose a \$400 state penalty assessment and a \$280 county penalty assessment. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment to reflect this modification and to list the two \$50 laboratory analysis fees and the two \$150 drug program fees that were imposed in 1997 and 1999. The court is further directed to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.

We concur:

HULL, J.

ROBIE, J.